

(2) The term “WTO Agreement” means the Agreement Establishing the World Trade Organization entered into on April 15, 1994 and the multilateral trade agreements (as such term is defined in section 3501(4) of this title).

(Pub. L. 100-418, title I, §1106, Aug. 23, 1988, 102 Stat. 1133; Pub. L. 103-465, title VI, §621(a)(4), Dec. 8, 1994, 108 Stat. 4993; Pub. L. 104-295, §20(f)(3), Oct. 11, 1996, 110 Stat. 3529.)

AMENDMENTS

1996—Pub. L. 104-295 substituted “or WTO” for “for WTO” in section catchline.

1994—Pub. L. 103-465, §621(a)(4)(D), inserted “for WTO” after “Trade” in section catchline.

Subsec. (a). Pub. L. 103-465, §621(a)(4)(A), substituted “the GATT 1947, or to the WTO Agreement,” for “the GATT” in introductory provisions.

Subsecs. (b), (c). Pub. L. 103-465, §621(a)(4)(B), inserted “1947 or the WTO Agreement” after “the GATT” wherever appearing.

Subsec. (e). Pub. L. 103-465, §621(a)(4)(C), added subsec. (e).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective on the date on which the WTO Agreement enters into force with respect to the United States [Jan. 1, 1995], see section 621(b) of Pub. L. 103-465, set out as a note under section 1677k of this title.

DELEGATION OF FUNCTIONS

For delegation of certain functions of President under this section to United States Trade Representative, see section 1-101 of Ex. Ord. No. 12661, Dec. 27, 1988, 54 F.R. 779, set out as a note under section 2901 of this title.

§ 2906. Definitions

For purposes of this chapter:

(1) The term “distortion” includes, but is not limited to, a subsidy.

(2) The term “foreign country” includes any foreign instrumentality. Any territory or possession of a foreign country that is administered separately for customs purposes, shall be treated as a separate foreign country.

(3) The term “GATT” means the GATT 1947 (as defined in section 3501(1)(A) of this title).

(4) The term “implementing bill” has the meaning given such term in section 2191(b)(1) of this title.

(5) The term “international trade” includes, but is not limited to—

(A) trade in both goods and services, and

(B) foreign direct investment by United States persons, especially if such investment has implications for trade in goods and services.

(6) The term “state trading enterprise” means—

(A) any agency, instrumentality, or administrative unit of a foreign country which—

(i) purchases goods or services in international trade for any purpose other than the use of such goods or services by such agency, instrumentality, administrative unit, or foreign country, or

(ii) sells goods or services in international trade; or

(B) any business firm which—

(i) is substantially owned or controlled by a foreign country or any agency, instrumentality, or administrative unit thereof,

(ii) is granted (formally or informally) any special or exclusive privilege by such foreign country, agency, instrumentality, or administrative unit, and

(iii) purchases goods or services in international trade for any purpose other than the use of such goods or services by such foreign country, agency, instrumentality, or administrative unit, or which sells goods or services in international trade.

(Pub. L. 100-418, title I, §1107, Aug. 23, 1988, 102 Stat. 1134; Pub. L. 103-465, title VI, §621(a)(5), Dec. 8, 1994, 108 Stat. 4993.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this part”, meaning part 1 (§§1101 to 1107) of subtitle A of title I of Pub. L. 100-418, which enacted this chapter and amended sections 2131, 2133, and 2191 of this title. For complete classification of part 1 to the Code, see Tables.

CODIFICATION

Section is comprised of subsec. (a) of section 1107 of Pub. L. 100-418. Subsec. (b) of section 1107 of Pub. L. 100-418 amended sections 2131 and 2191 of this title.

AMENDMENTS

1994—Par. (3). Pub. L. 103-465 substituted “the GATT 1947 (as defined in section 3501(1)(A) of this title)” for “the General Agreement on Tariffs and Trade”.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective on the date on which the WTO Agreement enters into force with respect to the United States [Jan. 1, 1995], see section 621(b) of Pub. L. 103-465, set out as a note under section 1677k of this title.

CHAPTER 18—IMPLEMENTATION OF HARMONIZED TARIFF SCHEDULE

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 - (c) Import restrictions under Agricultural Adjustment Act.
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§ 3001. Purposes

The purposes of this chapter are—

- (1) to approve the International Convention on the Harmonized Commodity Description and Coding System;
- (2) to implement in United States law the nomenclature established internationally by the Convention; and
- (3) to provide that the Convention shall be treated as a trade agreement obligation of the United States.

(Pub. L. 100–418, title I, §1201, Aug. 23, 1988, 102 Stat. 1147.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this subtitle”, meaning subtitle B (§§1201 to 1217) of title I of Pub. L. 100–418, which enacted this chapter, amended sections 58c, 1312, 1315, 1321, 1337, 1466, 1498, 2011, 2138, 2253, 2434, 2437, 2481, 2483, 2581, 2702, and 2703 of this title, sections 511r, 1444, 1783, and 1784 of Title 7, Agriculture, section 374 of Title 10, Armed Forces, section 301 of Title 13, Census, sections 1274, 2064, 2066, 2602, and 2612 of Title 15, Commerce and Trade, sections 1606a and 3912 of Title 16, Conservation, sections 41 and 951 of Title 21, Food and Drugs, section 5059 of Title 22, Foreign Relations and Intercourse, sections 7652 and 9504 of Title 26, Internal Revenue Code, section 1295 of Title 28, Judiciary and Judicial Procedure, and section 98h–4 of Title 50, War and National Defense, and enacted provisions set out as notes under sections 1202, 3001, and 3005 of this title, and amended provisions set out as notes preceding section 1202 and under section 2112 of this title. For complete classification of subtitle B to the Code, see Tables.

EFFECTIVE DATE

Section 1217 of Pub. L. 100–418 provided that:

“(a) ACCESSION TO CONVENTION AND PROVISIONS OTHER THAN THE IMPLEMENTATION OF THE HARMONIZED TARIFF SCHEDULE.—Except as provided in subsection (b), the provisions of this subtitle [subtitle B (§§1201–1217) of title I of Pub. L. 100–418, see References in Text note above] take effect on the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988 [Aug. 23, 1988].

“(b) IMPLEMENTATION OF THE HARMONIZED TARIFF SCHEDULE.—The effective date of the Harmonized Tariff Schedule is January 1, 1989. On such date—

- “(1) the amendments made by sections 1204(a), 1213, 1214, and 1215 [amending sections 58c, 1312, 1315, 1321, 1337, 1466, 1498, 2011, 2138, 2253, 2434, 2437, 2481, 2483, 2581, 2702, and 2703 of this title, sections 511r, 1444,

1783, and 1784 of Title 7, Agriculture, section 374 of Title 10, Armed Forces, section 301 of Title 13, Census, sections 1274, 2064, 2066, 2602, and 2612 of Title 15, Commerce and Trade, sections 1606a and 3912 of Title 16, Conservation, sections 41 and 951 of Title 21, Food and Drugs, section 5059 of Title 22, Foreign Relations and Intercourse, sections 7652 and 9504 of Title 26, Internal Revenue Code, section 1295 of Title 28, Judiciary and Judicial Procedure, and section 98h–4 of Title 50, War and National Defense, and amending provisions set out as notes preceding section 1202 and under section 2112 of this title] take effect and apply with respect to articles entered on or after such date; and

“(2) sections 1204(c), 1211, and 1212 [enacting sections 3004(c), 3011, and 3012 of this title] take effect.”

§ 3002. Definitions

As used in this chapter:

(1) The term “Commission” means the United States International Trade Commission.

(2) The term “Convention” means the International Convention on the Harmonized Commodity Description and Coding System, done at Brussels on June 14, 1983, and the Protocol thereto, done at Brussels on June 24, 1986, submitted to the Congress on June 15, 1987.

(3) The term “entered” means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(4) The term “Federal agency” means any establishment in the executive branch of the United States Government.

(5) The term “old Schedules” means title I of the Tariff Act of 1930 (19 U.S.C. 1202) as in effect on the day before the effective date of the amendment to such title under section 1204(a).

(6) The term “technical rectifications” means rectifications of an editorial character or minor technical or clerical changes which do not affect the substance or meaning of the text, such as—

(A) errors in spelling, numbering, or punctuation;

(B) errors in indentation;

(C) errors (including inadvertent omissions) in cross-references to headings or subheadings or notes; and

(D) other clerical or typographical errors.

(Pub. L. 100–418, title I, §1202, Aug. 23, 1988, 102 Stat. 1147.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this subtitle”, meaning subtitle B (§§1201 to 1217) of title I of Pub. L. 100–418, which is classified principally to this chapter. For complete classification of this subtitle to the Code, see References in Text note set out under section 3001 of this title and Tables.

Title I of the Tariff Act of 1930 (19 U.S.C. 1202) as in effect on the day before the effective date of the amendment to such title under section 1204(a), referred to in par. (5), is title I of act June 17, 1930, ch. 497, 46 Stat. 590, as in effect on the day before Jan. 1, 1989. Title I of the Tariff Act of 1930 which comprised the Tariff Schedules of the United States was not set out in the Code.

§ 3003. Congressional approval of United States accession to the Convention

(a) Congressional approval

The Congress approves the accession by the United States of America to the Convention.

(b) Acceptance of final legal text of Convention by President

The President may accept for the United States the final legal instruments embodying the Convention. The President shall submit a copy of each final instrument to the Congress on the date it becomes available.

(c) Unspecified private remedies not created

Neither the entry into force with respect to the United States of the Convention nor the enactment of this chapter may be construed as creating any private right of action or remedy for which provision is not explicitly made under this chapter or under other laws of the United States.

(d) Termination

The provisions of section 2135(a) of this title do not apply to the Convention.

(Pub. L. 100-418, title I, §1203, Aug. 23, 1988, 102 Stat. 1148.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original “this subtitle”, meaning subtitle B (§§1201 to 1217) of title I of Pub. L. 100-418, which is classified principally to this chapter. For complete classification of this subtitle to the Code, see References in Text note set out under section 3001 of this title and Tables.

§ 3004. Enactment of Harmonized Tariff Schedule

(a) Omitted

(b) Modifications to Harmonized Tariff Schedule

At the earliest practicable date after August 23, 1988, the President shall—

(1) proclaim such modifications to the Harmonized Tariff Schedule as are consistent with the standards applied in converting the old Schedules into the format of the Convention, as reflected in such Publication No. 2030 and Supplement No. 1,¹ thereto, and as are necessary or appropriate to implement—

(A) the future outstanding staged rate reductions authorized by the Congress in—

(i) the Trade Act of 1974 (19 U.S.C. 2101 et seq.) and the Trade Agreements Act of 1979 (19 U.S.C. 2501 et seq.) to reflect the tariff reductions that resulted from the Tokyo Round of multilateral trade negotiations, and

(ii) the United States-Israel Free Trade Area Implementation Act of 1985 [19 U.S.C. 2112 note] to reflect the tariff reduction resulting from the United States-Israel Free Trade Area Agreement,

(B) the applicable provisions of—

(i) statutes enacted,
(ii) executive actions taken, and
(iii) final judicial decisions rendered,

after January 1, 1988, and before January 1, 1989, and

(C) such technical rectifications as the President considers necessary; and

(2) take such action as the President considers necessary to bring trade agreements to which the United States is a party into conformity with the Harmonized Tariff Schedule.

(c) Status of Harmonized Tariff Schedule

(1) The following shall be considered to be statutory provisions of law for all purposes:

(A) The provisions of the Harmonized Tariff Schedule as enacted by this chapter.

(B) Each statutory amendment to the Harmonized Tariff Schedule.

(C) Each modification or change made to the Harmonized Tariff Schedule by the President under authority of law (including section 604 of the Trade Act of 1974 [19 U.S.C. 2483]).

(2) Neither the enactment of this chapter nor the subsequent enactment of any amendment to the Harmonized Tariff Schedule, unless such subsequent enactment otherwise provides, may be construed as limiting the authority of the President—

(A) to effect the import treatment necessary or appropriate to carry out, modify, withdraw, suspend, or terminate, in whole or in part, trade agreements; or

(B) to take such other actions through the modification, continuance, or imposition of any rate of duty or other import restriction as may be necessary or appropriate under the authority of the President.

(3) If a rate of duty established in column 1 by the President by proclamation or Executive order is higher than the existing rate of duty in column 2, the President may by proclamation or Executive order increase such existing rate to the higher rate.

(4) If a rate of duty is suspended or terminated by the President by proclamation or Executive order and the proclamation or Executive order does not specify the rate that is to apply in lieu of the suspended or terminated rate, the last rate of duty that applied prior to the suspended or terminated rate shall be the effective² rate of duty.

(d) Interim informational use of Harmonized Tariff Schedule classifications

Each—

(1) proclamation issued by the President;

(2) public notice issued by the Commission or other Federal agency; and

(3) finding, determination, order, recommendation, or other decision made by the Commission or other Federal agency;

during the period between August 23, 1988, and January 1, 1989, shall, if the proclamation, notice, or decision contains a reference to the tariff classification of any article, include, for informational purposes, a reference to the classification of that article under the Harmonized Tariff Schedule.

(Pub. L. 100-418, title I, §1204, Aug. 23, 1988, 102 Stat. 1148.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule, referred to in text, is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

The Trade Act of 1974, referred to in subsec. (b)(1)(A)(i), is Pub. L. 93-618, Jan. 3, 1975, 88 Stat. 1978, as amended, which is classified principally to chapter

¹ So in original.

² So in original. Probably should be “effective”.

12 (§2101 et seq.) of this title. For complete classification of this Act to the Code, see References in Text note set out under section 2101 of this title and Tables.

The Trade Agreements Act of 1979, referred to in subsec. (b)(1)(A)(i), is Pub. L. 96-39, July 26, 1979, 93 Stat. 144, as amended. For complete classification of this Act to the Code, see References in Text note set out under section 2501 of this title and Tables.

The United States-Israel Free Trade Area Implementation Act of 1985, referred to in subsec. (b)(1)(A)(ii), is Pub. L. 99-47, June 11, 1985, 99 Stat. 82, as amended, which amended sections 2112, 2462 to 2464, and 2518 of this title, and enacted and amended provisions set out as notes under section 2112 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2112 of this title and Tables.

This chapter, referred to in subsec. (c)(1)(A), (2), was in the original “this subtitle”, meaning subtitle B (§§1201 to 1217) of title I of Pub. L. 100-418, which is classified principally to this chapter. For complete classification of this subtitle to the Code, see References in Text note set out under section 3001 of this title and Tables.

CODIFICATION

Section is comprised of section 1204 of Pub. L. 100-418. Subsec. (a) of section 1204 of Pub. L. 100-418 amended title I of the Tariff Act of 1930, act June 17, 1930, ch. 497, title I, 46 Stat. 590. See note set out preceding section 1202 of this title.

EFFECTIVE DATE

Subsecs. (b) and (d) effective Aug. 23, 1988, and subsec. (c) effective Jan. 1, 1989, see section 1217(a), (b)(2) of Pub. L. 100-418, set out as a note under section 3001 of this title.

§ 3005. Commission review of, and recommendations regarding, Harmonized Tariff Schedule

(a) In general

The Commission shall keep the Harmonized Tariff Schedule under continuous review and periodically, at such time as amendments to the Convention are recommended by the Customs Cooperation Council for adoption, and as other circumstances warrant, shall recommend to the President such modifications in the Harmonized Tariff Schedule as the Commission considers necessary or appropriate—

- (1) to conform the Harmonized Tariff Schedule with amendments made to the Convention;
- (2) to promote the uniform application of the Convention and particularly the Annex thereto;
- (3) to ensure that the Harmonized Tariff Schedule is kept up-to-date in light of changes in technology or in patterns of international trade;
- (4) to alleviate unnecessary administrative burdens; and
- (5) to make technical rectifications.

(b) Agency and public views regarding recommendations

In formulating recommendations under subsection (a) of this section, the Commission shall solicit, and give consideration to, the views of interested Federal agencies and the public. For purposes of obtaining public views, the Commission—

- (1) shall give notice of the proposed recommendations and afford reasonable opportunity for interested parties to present their views in writing; and

- (2) may provide for a public hearing.

(c) Submission of recommendations

The Commission shall submit recommendations under this section to the President in the form of a report that shall include a summary of the information on which the recommendations were based, together with a statement of the probable economic effect of each recommended change on any industry in the United States. The report also shall include a copy of all written views submitted by interested Federal agencies and a copy or summary, prepared by the Commission, of the views of all other interested parties.

(d) Requirements regarding recommendations

The Commission may not recommend any modification to the Harmonized Tariff Schedule unless the modification meets the following requirements:

- (1) The modification must—
 - (A) be consistent with the Convention or any amendment thereto recommended for adoption;
 - (B) be consistent with sound nomenclature principles; and
 - (C) ensure substantial rate neutrality.
- (2) Any change to a rate of duty must be consequent to, or necessitated by, nomenclature modifications that are recommended under this section.
- (3) The modification must not alter existing conditions of competition for the affected United States industry, labor, or trade.

(Pub. L. 100-418, title I, §1205, Aug. 23, 1988, 102 Stat. 1150.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule, referred to in subsecs. (a) and (d), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

COMMISSION REPORT ON OPERATION OF IMPLEMENTATION OF HARMONIZED TARIFF SCHEDULE

Section 1216 of Pub. L. 100-418 required Commission, in consultation with other appropriate Federal agencies, to prepare and submit to Congress and President a report regarding operation of subtitle B (§§1201-1217) of title I of Pub. L. 100-418, during the 12-month period commencing on effective date of Harmonized Tariff Schedule, Jan. 1, 1989, said report to be submitted to Congress and President before close of 6-month period beginning on day after last day of such 12-month period.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3006 of this title.

§ 3006. Presidential action on Commission recommendations

(a) In general

The President may proclaim modifications, based on the recommendations by the Commission under section 3005 of this title, to the Harmonized Tariff Schedule if the President determines that the modifications—

- (1) are in conformity with United States obligations under the Convention; and
- (2) do not run counter to the national economic interest of the United States.

(b) Lay-over period

(1) The President may proclaim a modification under subsection (a) of this section only after the expiration of the 60-day period beginning on the date on which the President submits a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate that sets forth the proposed modification and the reasons therefor.

(2) The 60-day period referred to in paragraph (1) shall be computed by excluding—

(A) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die; and

(B) any Saturday and Sunday, not excluded under subparagraph (A), when either House is not in session.

(c) Effective date of modifications

Modifications proclaimed by the President under subsection (a) of this section may not take effect before the 15th day after the date on which the text of the proclamation is published in the Federal Register.

(Pub. L. 100-418, title I, §1206, Aug. 23, 1988, 102 Stat. 1151.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule, referred to in subsec. (a), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

DELEGATION OF AUTHORITY

Memorandum of President of the United States, Dec. 12, 1991, 56 F.R. 65413, provided:

Memorandum for the United States Trade Representative

By virtue of the authority vested in me by the Constitution and laws of the United States, including section 301 of title 3 of the United States Code and the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100-418) (“the Act”) [see Tables for classification], you are hereby delegated the functions vested in me by section 1206(b) of the Act (19 U.S.C. 3006(b)), to submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate reports that set forth proposed modifications to the Harmonized Tariff Schedule [see 19 U.S.C. 1202] and the reasons therefor.

The President shall retain the authority under section 1206 of the Act to proclaim modifications to the Harmonized Tariff Schedule after the layover period specified in section 1206(b) has expired.

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE BUSH.

§ 3007. Publication of Harmonized Tariff Schedule**(a) In general**

The Commission shall compile and publish, at appropriate intervals, and keep up to date the Harmonized Tariff Schedule and related information in the form of printed copy; and, if, in its judgment, such format would serve the public interest and convenience—

- (1) in the form of microfilm images; or
- (2) in the form of electronic media.

(b) Content

Publications under subsection (a) of this section, in whatever format, shall contain—

(1) the then current Harmonized Tariff Schedule;

(2) statistical annotations and related statistical information formulated under section 1484(f) of this title; and

(3) such other matters as the Commission considers to be necessary or appropriate to carry out the purposes enumerated in the Preamble to the Convention.

(Pub. L. 100-418, title I, §1207, Aug. 23, 1988, 102 Stat. 1151; Pub. L. 104-295, §21(e)(10), Oct. 11, 1996, 110 Stat. 3531.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule, referred to in subsecs. (a) and (b)(1), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

AMENDMENTS

1996—Subsec. (b)(2). Pub. L. 104-295 substituted “1484(f)” for “1484(e)”.

§ 3008. Import and export statistics

The Secretary of Commerce shall compile, and make publicly available, the import and export trade statistics of the United States. Such statistics shall be conformed to the nomenclature of the Convention.

(Pub. L. 100-418, title I, §1208, Aug. 23, 1988, 102 Stat. 1152.)

§ 3009. Coordination of trade policy and Convention

The United States Trade Representative is responsible for coordination of United States trade policy in relation to the Convention. Before formulating any United States position with respect to the Convention, including any proposed amendments thereto, the United States Trade Representative shall seek, and consider, information and advice from interested parties in the private sector (including a functional advisory committee) and from interested Federal agencies.

(Pub. L. 100-418, title I, §1209, Aug. 23, 1988, 102 Stat. 1152.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3010 of this title.

§ 3010. United States participation on Customs Cooperation Council regarding Convention**(a) Principal United States agencies**

(1) Subject to the policy direction of the Office of the United States Trade Representative under section 3009 of this title, the Department of the Treasury, the Department of Commerce, and the Commission shall, with respect to the activities of the Customs Cooperation Council relating to the Convention—

- (A) be primarily responsible for formulating United States Government positions on technical and procedural issues; and
- (B) represent the United States Government.

(2) The Department of Agriculture and other interested Federal agencies shall provide to the Department of the Treasury, the Department of Commerce, and the Commission technical ad-

vice and assistance relating to the functions referred to in paragraph (1).

(b) Development of technical proposals

(1) In connection with responsibilities arising from the implementation of the Convention and under section 1484(f) of this title regarding United States programs for the development of adequate and comparable statistical information on merchandise trade, the Secretary of the Treasury, the Secretary of Commerce, and the Commission shall prepare technical proposals that are appropriate or required to assure that the United States contribution to the development of the Convention recognizes the needs of the United States business community for a Convention which reflects sound principles of commodity identification, modern producing methods, and current trading patterns and practices.

(2) In carrying out this subsection, the Secretary of the Treasury, the Secretary of Commerce, and the Commission shall—

(A) solicit and consider the views of interested parties in the private sector (including a functional advisory committee) and of interested Federal agencies;

(B) establish procedures for reviewing, and developing appropriate responses to, inquiries and complaints from interested parties concerning articles produced in and exported from the United States; and

(C) where appropriate, establish procedures for—

(i) ensuring that the dispute settlement provisions and other relevant procedures available under the Convention are utilized to promote United States export interests, and

(ii) submitting classification questions to the Harmonized System Committee of the Customs Cooperation Council.

(c) Availability of Customs Cooperation Council publications

As soon as practicable after August 23, 1988, and periodically thereafter as appropriate, the Commission shall see to the publication of—

(1) summary records of the Harmonized System Committee of the Customs Cooperation Council; and

(2) subject to applicable copyright laws, the Explanatory Notes, Classification Opinions, and other instruments of the Customs Cooperation Council relating to the Convention.

(Pub. L. 100-418, title I, §1210, Aug. 23, 1988, 102 Stat. 1152; Pub. L. 104-295, §21(e)(10), Oct. 11, 1996, 110 Stat. 3531.)

AMENDMENTS

1996—Subsec. (b)(1). Pub. L. 104-295 substituted “1484(f)” for “1484(e)”.

§ 3011. Transition to Harmonized Tariff Schedule

(a) Existing executive actions

(1) The appropriate officers of the United States Government shall take whatever actions are necessary to conform, to the fullest extent practicable, with the tariff classification system of the Harmonized Tariff Schedule all proclamations, regulations, rulings, notices, findings, de-

terminations, orders, recommendations, and other written actions that—

(A) are in effect on the day before January 1, 1989; and

(B) contain references to the tariff classification of articles under the old Schedules.

(2) Neither the repeal of the old Schedules, nor the failure of any officer of the United States Government to make the conforming changes required under paragraph (1), shall affect to any extent the validity or effect of the proclamation, regulation, ruling, notice, finding, determination, order, recommendation, or other action referred to in paragraph (1).

(b) Generalized System of Preferences conversion

(1) The review of the proposed conversion of the Generalized System of Preferences program to the Convention tariff nomenclature, initiated by the Office of the United States Trade Representative by notice published in the Federal Register on December 8, 1986 (at page 44,163 of volume 51 thereof), shall be treated as satisfying the requirements of sections 2463(a) and 2464(c)(3) of this title (as in effect on July 31, 1995).

(2) In applying section 2464(c)(1) of this title (as in effect on July 31, 1995) for calendar year 1989, the reference in such section to July 1 shall be treated as a reference to September 1.

(c) Import restrictions under Agricultural Adjustment Act

(1) Whenever the President determines that the conversion of an import restriction proclaimed under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624) from part 3 of the Appendix to the old Schedules to subchapter IV of chapter 99 of the Harmonized Tariff Schedule results in—

(A) an article that was previously subject to the restriction being excluded from the restriction; or

(B) an article not previously subject to the restriction being included within the restriction;

the President may proclaim changes in subchapter IV of chapter 99 of the Harmonized Tariff Schedule to conform that subchapter to the fullest extent possible to part 3 of the Appendix to the old Schedules.

(2) Whenever the President determines that the conversion from headnote 2 of subpart A of part 10 of schedule 1 of the old Schedules to Additional U.S. Note 2, chapter 17, of the Harmonized Tariff Schedule results in—

(A) an article that was previously covered by such headnote being excluded from coverage; or

(B) an article not previously covered by such headnote being included in coverage;

the President may proclaim changes in Additional U.S. Note 2, chapter 17 of the Harmonized Tariff Schedule to conform that note to the fullest extent possible to headnote 2 of subpart A of part 10 of schedule 1 of the old Schedules.

(3) No change to the Harmonized Tariff Schedule may be proclaimed under paragraph (1) or (2) after June 30, 1990.

(d) Certain protests and petitions under customs law

(1)(A) This chapter may not be considered to divest the courts of jurisdiction over—

- (i) any protest filed under section 1514 of this title; or
- (ii) any petition by an American manufacturer, producer, or wholesaler under section 1516 of this title;

covering articles entered before January 1, 1989.

(B) Nothing in this chapter shall affect the jurisdiction of the courts with respect to articles entered after January 1, 1989.

(2)(A) If any protest or petition referred to in paragraph (1)(A) is sustained in whole or in part by a final judicial decision, the entries subject to that protest or petition and made before January 1, 1989, shall be liquidated or reliquidated, as appropriate, in accordance with such final judicial decision under the old Schedules.

(B) At the earliest practicable date after January 1, 1989, the Commission shall initiate an investigation under section 1332 of this title of those final judicial decisions referred to in subparagraph (A) that—

- (i) are published during the 2-year period beginning on February 1, 1988; and
- (ii) would have affected tariff treatment if they had been published during the period of the conversion of the old Schedules into the format of the Convention.

No later than September 1, 1990, the Commission shall report the results of the investigation to the President, the Committee on Ways and Means, and the Committee on Finance, and shall recommend those changes to the Harmonized Tariff Schedule that the Commission would have recommended if the final decisions concerned had been made before the conversion into the format of the Convention occurred.

(3) The President shall review all changes recommended by the Commission under paragraph (2)(B) and shall, as soon as practicable, proclaim such of those changes, if any, which he decides are necessary or appropriate to conform such Schedule to the final judicial decisions. Any such change shall be effective with respect to—

- (A) entries made on or after the date of such proclamation; and
- (B) entries made on or after January 1, 1989, if, notwithstanding section 1514 of this title, application for liquidation or reliquidation thereof is made by the importer to the customs officer concerned within 180 days after the effective date of such proclamation.

(4) If any protest or petition referred to in paragraph (1)(A) is not sustained in whole or in part by a final judicial decision, the entries subject to that petition or protest and made before January 1, 1989, shall be liquidated or reliquidated, as appropriate, in accordance with the final judicial decision under the old Schedules.

(Pub. L. 100-418, title I, § 1211, Aug. 23, 1988, 102 Stat. 1153; Pub. L. 104-188, title I, § 1954(a)(1), Aug. 20, 1996, 110 Stat. 1927.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule, referred to in subsecs. (a)(1), (c), and (d)(2)(B), (3), is not set out in the

Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

This chapter, referred to in subsec. (d)(1), was in the original “this subtitle”, meaning subtitle B (§§ 1201-1217) of title I of Pub. L. 100-418, which is classified principally to this chapter. For complete classification of this subtitle to the Code, see References in Text note set out under section 3001 of this title and Tables.

AMENDMENTS

1996—Subsec. (b)(1). Pub. L. 104-188, § 1954(a)(1), inserted “(as in effect on July 31, 1995)” after “of this title”.

Subsec. (b)(2). Pub. L. 104-188, § 1954(a)(2), inserted “(as in effect on July 31, 1995)” after “of this title”.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188 applicable to articles entered on or after Oct. 1, 1996, with provisions relating to retroactive application, see section 1953 of Pub. L. 104-188, set out as an Effective Date note under section 2461 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1989, see section 1217(b)(2) of Pub. L. 100-418, set out as a note under section 3001 of this title.

§ 3012. Reference to Harmonized Tariff Schedule

Any reference in any law to the “Tariff Schedules of the United States”, “the Tariff Schedules”, “such Schedules”, and any other general reference that clearly refers to the old Schedules shall be treated as a reference to the Harmonized Tariff Schedule.

(Pub. L. 100-418, title I, § 1212, Aug. 23, 1988, 102 Stat. 1155.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule, referred to in text, is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1989, see section 1217(b)(2) of Pub. L. 100-418, set out as a note under section 3001 of this title.

**CHAPTER 19—TELECOMMUNICATIONS
TRADE**

Sec.	
3101.	Findings and purposes. <ul style="list-style-type: none"> (a) Findings. (b) Purposes.
3102.	Definitions.
3103.	Investigation of foreign telecommunications trade barriers. <ul style="list-style-type: none"> (a) In general. (b) Factors to be taken into account. (c) Revocations and additional identifications. (d) Report to Congress.
3104.	Negotiations in response to investigation. <ul style="list-style-type: none"> (a) In general. (b) Establishment of specific negotiating objectives for each foreign priority country. (c) General negotiating objectives. (d) Specific negotiating objectives.
3105.	Actions to be taken if no agreement obtained. <ul style="list-style-type: none"> (a) In general. (b) Actions authorized. (c) Negotiating period. (d) Modification and termination authority.